

SEALED

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

This matter is before the Court on the Government's *Ex Parte* Motion to Disclose the Financial Affidavit of Defendant David Ball (#245), filed on February 5, 2014. Having reviewed the Government's *Ex Parte* Motion, the Court will deny it without prejudice for the following reasons: First, while the motion sets forth the factual basis for the Government's request, it is not accompanied by any statement of legal authority or legal basis for the Government's motion. Second, the factual assertions in the motion are based on statements allegedly made to the Government's investigator by the Defendant's wife. Such statements, on their face, appear to be subject to marital privilege under Nevada Revised Statute (NRS) 49.295.1(b) and may not be used against the Defendant without his consent. Finally, the Government has not demonstrated that Defendant Ball is unaware of his wife's communications with the Government's investigator, such that *ex parte* consideration of this motion, without affording Defendant an opportunity to respond, is justified. Moreover, given Defendant's potential privilege, consideration of this motion on an *ex parte* basis appears questionable. Accordingly,

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IT IS HEREBY ORDERED that on the Government's *Ex Parte* Motion to Disclose the Financial Affidavit of Defendant David Ball (#245) is **denied**, without prejudice.

DATED this 7th day of February, 2014.

George Foley Jr.
GEORGE FOLEY, JR.
United States Magistrate Judge